



Attorney's Docket No. 9289-4

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In: Application of Mitchell et al.

Serial No.: 09/998,026

Filed: 30 November 2001

For: *TRICEPS EXTENSION MACHINE*

Group Art Unit: 3764

Examiner: V. K. Hwang

Date: November 30, 2004

Comment [COMMENT1]: Remember to include a copy of the Notice to File Missing Parts (PTO 1533) along with this transmittal form, the Declaration and Power of Attorney, and the Small Entity Statement.

Commissioner for Patents
Washington, DC 20231

DECLARATION OF GREGORY M. WEBB

PURSUANT TO 37 C.F.R. § 1.132

I, Gregory M. Webb, do hereby declare and state as follows:

1. I am currently Vice-President of Engineering of Commercial Strength Products for Nautilus, Inc., and have held this position or a similar position with Nautilus predecessors in interest since the late 1980s. I have been employed with Nautilus or one of its predecessors in interest since June 15, 1980. I hold a B.S.M.E. degree from Virginia Polytechnic Institute, which I received in June of 1980.

2. I am a named inventor on the above-referenced application and have read and understand the application.

3. I am familiar with the biceps curl machine illustrated in *Time Machines by Nautilus* on pages 22, 23 and 28 thereof (the TM biceps machine).

4. The TM biceps machine was produced by Nautilus in the early- to mid-1970's. The machine included a frame, a seat upon which the exerciser sat, and a short backrest that was fixed to the seat. Elbow pads were fixed to the frame. Movement arms were pivotally mounted to the frame in such a position that the exerciser would place his elbows on the elbow pads, grasp the movement arms, and bend his arms at the elbows. Unlike many current biceps curl machines, the pivot axes of the movement arms were not collinear; instead, they formed an angle

of 90 degrees in front of the seated exerciser. Consequently, the vertical sections of the frame upon which the movement arms were mounted were not parallel to one another, as is the case with many current biceps curl machines, but formed an angle of 90 degrees behind the seated exerciser.

5. There were multiple problems with the TM biceps machine that made it difficult for the average exerciser to use. First, the 90 degree angle between the frame sections upon which the movement arms were mounted was too wide, which placed the elbow pads farther apart than was proper for most exercisers.¹ As a result, in order to reach the elbow pads, the typical exerciser was forced to stretch to reach for the pads, which placed the exerciser's upper arms at an angle to each other of considerably greater than 90 degrees. Thus, when the exerciser then grasped the movement arms and began to exercise, the pivot axes of the movement arms (which defined a 90 degree angle to each other in front of the user) were not aligned with the pivot axes defined by the user's elbows (which formed an angle much sharper than 90 degrees in front of the exerciser). This mismatch of machine pivot axis to exerciser pivot axis made the TM biceps machine very difficult, uncomfortable, and unpleasant for most exercisers (particularly smaller exercisers) to use.² As a result, the TM biceps machine was not particularly popular and has not been manufactured for at least twenty-five years.

6. As stated in the specification, most current triceps extension machines have movement arms that are mounted onto a frame so that their pivot axes are substantially collinear. In many machines, the exerciser will sit on a seat and rest his elbows in front of him on a platform, then grasp the movement arms and move them away from his body against resistance provided by the machine. However, such a machine is typically somewhat difficult for the user

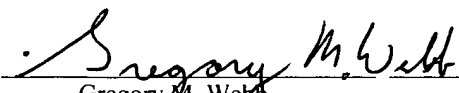
¹ The inappropriateness of the size of the TM biceps machine may not immediately be clear from the pictures in *Time Machines*, as the machine appears to fit the exerciser relatively well. However, it must be considered that the exerciser illustrated with the machine is Mike Reid, a defensive lineman for the Cincinnati Bengals and a very large man (certainly much larger than a typical exerciser).

² Another way to state the problem is that the user's plane of motion and the machine's plane of motion are not parallel with one another, so exercise could be uncomfortable and/or difficult.

to enter; many have a single bar across the front to support the upper arms, which forces the user to enter from the side, and those that have single arm supports have little room for the user to slip through in order to sit down. In addition, these types of triceps extension machines often do not stabilize the exerciser, who is free to lean back or thrash around in order to complete the exercise movement. Such additional motion by the exerciser is typically undesirable, as it decreases the intensity of the exercise on the exerciser's triceps.

7. The triceps machines described in the present application have solved some of the problems present in current triceps extension machines. Because the exerciser is seated, with the elbows above the shoulders and the back stationary, there is little, if any, unwanted motion that the exerciser can perform that will assist with the exercise motion. As a result, the exercise movement focuses on the exerciser's triceps muscles without the risk of decreased intensity due to unwanted motion. Also, the angle of the frame sections of the machine upon which the movement arms are mounted is between 20 and 70 degrees (approximately 35 to 45 degrees is preferred). As a result, most exercisers are able to enter and be seated on the machine easily and comfortably. Also, they are able to place their upper arms or elbows on the pads without the undue reaching required by a machine configured with a 90 degree angle between the frame uprights like that of TM biceps machine described above. Consequently, the exerciser's upper arms are generally parallel with the frame sections that support the movement arms, such that the exerciser's pivot axes at the elbows can be parallel with the pivot axes of the movement arms (the angle between the pivot axes of the movement arms being between about 115 and 155 degrees, with 135 to 145 degrees being preferred). This arrangement provides more comfortable, effective exercise for the exerciser.

8. I do hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 19 of the United States Code and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issued thereon.

 12-2-04
Gregory M. Webb Date